

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)

TITLE 86: REVENUE

**PART 100
INCOME TAX**

Section 100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)

- a) Beginning with tax years ending on or after June 30, 1995, each taxpayer who is primarily engaged in manufacturing is entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 of the Act in an amount equal to 5% of the amount of expenditures by the taxpayer in the tax year for which the credit is claimed, reported pursuant to Section 129(d)(7) of the Internal Revenue Code, to provide in the Illinois premises of the taxpayer's workplace an on-site facility dependent care assistance program under Section 129 of the Internal Revenue Code (see IITA Section 210(a)).
- b) The term manufacturing is defined, for purposes of this credit, in the same manner as that term is defined for purposes of the Replacement Tax Investment Credit (see IITA Section 201(e)(3)). Manufacturing is the material staging and production of tangible personal property by procedures commonly regarded as manufacturing, processing, fabrication or assembling which changes some existing material into new shapes, new qualities, or new combinations. It is not necessary that such procedures result in a finished consumer product. Procedures commonly regarded as manufacturing, processing, fabrication or assembling are those so regarded by the general public.
- c) A taxpayer is primarily engaged in manufacturing if more than 50% of the gross receipts of the taxpayer are received from the sale of items manufactured by the taxpayer.
- d) *Any credit allowed under this Section which is unused in the year the credit is earned may be carried forward to each of the 2 taxable years following the year for which the credit is computed until it is used.*
 - 1) *This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this Section from more than one tax year that is available to offset a liability, the earliest credit arising under this Section shall be applied first [35 ILCS 5/210(b)].*
 - 2) If a taxpayer has a Dependent Care Assistance Program Credit and credit(s) under any other provision of the Illinois Income Tax Act with a 5 year carryforward, the taxpayer may apply the Dependent Care Assistance Program Credit to tax otherwise due for a particular tax year, prior to applying the credit with the 5 year carryforward.

- e) In determining the amount of the credit claimed by the employer, the employer shall claim the same fair market value of dependent care assistance in the form of on-site day care facility services, as is determined by the employer for federal purposes under the terms of Cumulative Bulletin Notice 89-11, 1989-2 CB 449. For this purpose fair market value of on-site dependent care assistance shall mean the employer's estimate of the fair market value of in-kind dependent care assistance provided to employees which shall be 125 percent of reasonably estimated direct costs. For this purpose, direct costs are food, expendable materials and supplies, transportation, staff training, special or additional insurance directly attributable to the day care facility, periodic consulting or management fees directly related to the operation of the day care facility, and the cost of labor for personnel whose services relating to the facility are performed primarily on the premises of the day care facility.
- f) A taxpayer claiming the credit provided by Section 210 of the IITA needs to maintain records sufficient to document the costs associated with the provision of an on-site facility dependent care assistance program under Section 129 of the Internal Revenue Code. To the extent that the taxpayer determines the cost of the on-site facility for federal purposes in a manner different from that set forth in subsection (e) above, the taxpayer shall maintain books and records in a form sufficient to document all costs claimed under subsection (e).

(Source: Added at 22 Ill. Reg. 2234, effective January 9, 1998)